

REMARKS

The examiner is thanked for indicating claim 25 contains allowable subject matter and would be allowed if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Reconsideration of the pending application is respectfully requested on the basis of the following particulars:

1. Amendments and Support for Same

By the Response, claim 1 has been amended to more particularly point out and distinctly claim the subject matter of the invention. The underlined new limitations in amended claim 1 are supported by Figures 1 and 5A, wherein the second moving member 31 is shown to be latched to the housing 2 by a latch mechanism provided by a projection 21a and a hook 31C, and wherein the impact absorber 23A is shown to be provided separately from the latch mechanism and spaced from the second moving member 31 when the second moving member 31 is latch onto the housing 2.

New independent claim 29, which incorporates allowable features of claim 25 with former claim 1, has been added to further complete the scope of protection to which Applicant is entitled. No new matter has been added. Therefore, new independent claim 29 with the allowable features of claim 25 incorporated therein should now be in condition for allowance.

Claims 27 and 28 have been cancelled in view of the amendments to claim 1. Claims 8 and 11-23 have been withdrawn previously, and claim 26 has been cancelled previously. Accordingly, claims 1-7, 9, 10, 24, 25 and 29 are respectfully submitted for consideration. Approval and entry of the amendments are respectfully requested.

2. Rejections under 35 U.S.C. §102(b) and (e)

With respect to the rejection of claims 1, 27 and 28 under 35 U.S.C. §102(b) as being anticipated by Schraga (US 2003/0050656), to the rejection of claims 1 and 27 under 35 U.S.C. §102(b) as being anticipated by Garthe (DE 102 06 254 or US 2003/0225429), and to the rejection of claims 1-4, 6, 7, 9, 24 and 27 under 35 U.S.C. §102(e) as being anticipated by Whitson (US 7,144,404), Applicant respectfully traverses the rejection at least for the reason that each of Schraga, Garthe and Whitson fails to describe each and every limitation recited in the rejected claims.

Initially, the cancellation of independent claims 27 and 28 has rendered the rejection of these claims moot.

Independent claim 1 has been amended to set forth a lancing device comprising a first moving member holding a lancing member moved from a standby position to a puncturing position in a puncturing direction for puncturing a target portion by the lancing member, a second moving member connected to the first moving member for controlling the movement of the first moving member, a housing for accommodating the first and the second moving members while allowing the movement of the moving members, a latch mechanism for latching the second moving member onto the housing, a movement converting mechanism for converting retreating movement of the second moving member away from the puncturing position into advancing movement of the lancing member to the puncturing position, and an impact absorber provided separately from the latch mechanism. The impact absorber is spaced from the second moving member when the second moving member is latched onto the housing by the latch mechanism. The impact absorber comes into contact with the second moving member in the retreating movement for absorbing impact that is caused when the first and the second moving members come to stop on puncture operation.

According to the Examiner, the lancet 24 of Schraga may be regarded as corresponding to the claimed “first moving member”, while the actuation

assembly 40 of Schraga may be regarded as corresponding to Applicant's claimed "second moving member". Initially, Applicant respectfully notes that the actuation assembly 40 assumes a retreated position, while the lancet 24 assumes an intermediate standby position, as shown in Figure 2. When the actuation assembly 40 is pushed forward, a gear 30 in mesh with the actuation assembly 40 and the lancet 24 causes the lancet 24 to retreat for compressing a spring 50, as shown in Figure 3. When the actuation assembly 40 is further pushed forward, the actuation assembly 40 comes out of disengagement with the gear 30 and the spring 50 is further compressed, as shown in Figure 4. In this state, retreating movement of the actuation assembly 40 is prevented by engagement between two engaging elements 34, 47, whereas the compressed spring 50 pushes the lancet 24 for lancing, as shown in Figure 5. Thereafter, the spring 50 which has now been stretched pulls the lancet 24 for causing the lancing needle 25 to be pulled into the housing. The Examiner's attention is respectfully drawn to the description in paragraphs [0030] and [0031] of Schraga.

Therefore, in Schraga, it is the advancing movement of the actuation assembly 40 that causes the lancet 24 to move forward to the lancing position, and a retreating movement of the actuation assembly 40 is prohibited by the engagement between the two engagement elements 34, 47, as previously pointed out. Further, there is no impact absorber because the two engagement members 34, 47 do not come into contact with each other by the lancing movement of the lancet 24, as clearly understood from Figures 5 and 6. Thus, the Examiner's interpretation of Schraga is erroneous, and Schraga does not teach, disclose or suggest Applicant's claimed invention as recited in claim 1. Nonetheless, Applicant has chosen to amend claim 1 for more clearly distinguishing over Schraga, as discussed below.

In rejecting former claim 1, the Examiner takes the position that the latching element 47 must come into stopping contact with the housing wall. Though the latching element 47 comes into stopping contact with a counterpart

projection 34 of the housing 20 (see paragraph [0035]), Schraga still fails to meet the claimed limitation “an impact absorber provided separately from the latch mechanism, the impact absorber being spaced from the second moving member when the second moving member is latched onto the housing by the latch mechanism”, as recited in amended claim 1 of the present invention.

With respect to Garthe, the cited reference apparently fails to teach, disclose or suggest the claimed “latch mechanism”, let alone the other claimed limitations associated with the “impact absorber” in combination with the claimed “latch mechanism”.

With respect to Whitson, in the rejection of claim 1, the Examiner equates the element 228 (or 28) of Whitson with the claimed “impact absorbing means” (now amended as “impact absorber”). However, the element 228 (or 28) of Whitson is a drive spring that must be always held in contact with the frame 212 (or 12) which the Examiner equates with the claimed “second moving member”. Further, similar to Garthe and Schraga, Whitson also fails to teach or suggest the claimed “latch mechanism”.

Consequently, since each and every feature of the present claims is not taught (and is not inherent) in Garthe, Schraga or Whitson, as is required by MPEP Chapter 2131 in order to establish anticipation, the rejections of claim 1 under 35 U.S.C. §102(b) and (e) are improper.

The amendments and arguments set forth above in relation to claim 1 are also applicable to the anticipatory rejection of dependent claims 2-4, 6, 7, 9 and 24.

In view of the amendment and arguments set forth above, Applicant respectfully requests reconsideration and withdrawal of the §102(b) and (e) rejections of claims 1, 4-6, and 10.

3. Rejections under 35 U.S.C. §103(a)

With respect to the rejection of claims 2, 3, 9 and 10 under 35 U.S.C. §103(a) as being unpatentable over Garthe in view of Alden (US 7,033,371) and Stanton (US 2,993,698), and to the rejection of claims 5 and 10 under 35 U.S.C. §103(a) as being unpatentable over Whitson in view of Alden and Tone (US 4,328,879), Applicant respectfully traverses the rejection at least for the reasons set forth above in relation to the §102(b) and (e) rejections of claim 1, and for the reason that each of Alden, Stanton and Tone fails to cure the above-discussed deficiencies of their respective primary reference.

In view of the amendment and arguments set forth above, Applicant respectfully requests reconsideration and withdrawal of the §103(a) rejection of claims 2, 3, 5, 9 and 10.

4. Conclusion

In view of the amendments to the claims, and in further view of the foregoing remarks, it is respectfully submitted that the application is in condition for allowance. Accordingly, it is requested that claims 1-7, 9, 10, 24, 25 and 29 be allowed and the application be passed to issue.

If any issues remain that may be resolved by a telephone or facsimile communication with the Applicant's representative, the Examiner is invited to contact the undersigned at the numbers shown.

Further, while no fees are believed to be due, the Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 50-4525.

Respectfully submitted,

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